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Part IV.—Proceedings of the Madras Legislature.

CONTENTS

Act No. V of 1923.—An Act to regulate State Aid to Industries .. .. PAGE 55

Act of the Local Legislature of Madras.

In pursuance of the provisions of sub-section (3) of section 81 of the Government of India Act, the following Act of the Local Legislature of Madras having been assented to by the Governor on the 19th January 1923 and by the Governor-General on the 1st March 1923 is hereby published for general information :—

ACT No. V OF 1923

An Act to Regulate State Aid to Industries.

Preamble. WHEREAS it is expedient to give power to the Local Government to assist in the establishment and development of industries in the Presidency of Madras; and whereas the previous sanction of the Governor-General has been obtained under section 80-A of the Government of India Act to the passing of this Act; It is hereby enacted as follows :—

Short title. 1. (1) This Act may be called the Madras State Aid to Industries Act, 1922.

(2) It extends to the whole of the Presidency of Madras.

Director of Industries. 2. The Local Government may appoint any officer or other person to perform all or any of the functions of the Director of Industries under this Act.

Board of Industries. 3. (1) (*a*) There shall be constituted a Board of Industries consisting of not less than ten and not more than twelve members including the Chairman and the ex officio members. Not more than three of the members shall be Government officials.

(*b*) One of the members shall be elected by the members for the time being of the Madras Chamber of Commerce; one by the members for the time being of the Southern India Chamber of Commerce; one by the members for the time being of the Madras Trades Association; and two by the members of the Madras Legislative Council. The election shall be conducted in such manner as may be prescribed. A return of the name of every person so elected shall be made to the Local Government by the Chairman of the Chamber or Association concerned and by the Secretary to the Legislative Council, respectively, and such return shall be published in the *Fort St. George Gazette*.

(*c*) The Director of Industries, Madras, and the Secretary to the Government of Madras in the Finance Department shall be ex officio members of the Board of Industries.

(2) The Chairman and the remaining members shall be appointed by the Local Government by notification in the *Fort St George Gazette*, provided that if banking or mufassal interests and cottage industries are not represented by election,

members so appointed shall include, as far as possible, persons ... interests or industries.

(3) The Board of Industries shall assist the Local Governm... with applications for the grant of State aid under this Act.

(4) No member shall vote on or take part in the discussion of any ... coming up for consideration at a meeting of the Board of Industries if the qu... one in which he has any direct or indirect pecuniary interest by himself or ... partner or in which he is interested professionally on behalf of a client or as agen... for any person other than the Government, a local authority or a Railway Company.

No aid except in accordance with the provisions of this Act.

4. No aid shall be given by the Local Government to any industrial business or enterprise except in accordance with the provisions of this Act.

Industries to be aided.

5 (1) The industries to which aid may be given under this Act shall be such as have an important bearing on the economic development of the country and shall be:

(a) new or nascent industries, or

(b) industries to be newly introduced into areas where such industries are undeveloped, or

(c) cottage industries.

(2) No such aid shall be given to any joint-stock company unless:

(a) the same is registered in India on a rupee capital, and

(b) the company conforms to such rules as may be made by the Local Government from time to time requiring that a minimum number or a proportion of the members of its board of management shall be Indians.

Provided further that every recipient of aid under this Act shall make such provision for the training of apprentices as the Local Government may, from time to time, prescribe.

(3) The decision of the Local Government as to whether the conditions of this section are fulfilled shall be final.

Method of giving State aid.

6. Subject to the provisions of this Act and of the rules framed thereunder, the Local Government shall have power to give aid to an industrial business or enterprise in one or more of the following ways:—

(a) by granting a loan;

(b) by guaranteeing a cash credit, overdraft or fixed advance with a bank;

(c) by paying a subsidy for the conduct of research or for the purchase of machinery;

(d) by subscribing for shares or debentures;

(e) by guaranteeing a minimum return on part of the capital of a joint-stock company;

(f) by making a grant on favourable terms of land, raw material, firewood or water, the property of the Local Government.

Delegation of the power given by section 6.

7. The Local Government may delegate the power to grant State aid under section 6, provided that no authority to whom such power is delegated shall be empowered to grant aid to any one industrial business or enterprise of an amount or of value exceeding Rs. 10,000.

Application for State aid and procedure in dealing with applications.

8. (1) Any person desiring to obtain a loan or other aid for any industrial business or enterprise shall make his application to the Director of Industries in such form and shall furnish such information concerning his business as may be prescribed.

(2) If the extent of the aid applied for exceeds Rs. 50,000 and in any other case in which he considers this procedure necessary, the Director of Industries shall publish a notice in the prescribed manner calling upon any person who objects to the grant of the aid applied for to state his objections at a time or place to be specified, and shall hear such objection and make such inquiry as may be necessary.

(3) Every application for aid shall be placed before the Board of Industries for advice.

(4) The Local Government may constitute district committees for the purpose of advising on applications for aid.

(5) No aid shall be granted under this Act if the Board by a unanimous resolution at a meeting advises the rejection of the application.

Grant of loans.

9. No loan shall be granted of an amount exceeding 50 per cent of the net value of the assets of the industrial business or enterprise after deducting existing encumbrances, such value to be ascertained by such person as may be appointed by the Local Government and in accordance with such rules as may be prescribed; for the purpose of this valuation the additional assets which may be created by the

expenditure of the sums granted may be taken into account to such extent as may be prescribed.

Loans how secured.

10. Every loan granted under this Act shall be secured by a mortgage or floating charge upon the whole of the assets of the business or enterprise, subject to any encumbrances existing at the time of the grant, and by such collateral security, if any, as may be required by the Local Government, and shall bear interest payable on such dates and at such rates as the Local Government may determine.

Inspection and returns.

11. In any case in which a loan has been applied for under this Act, the applicant, and at any time during the currency of a loan that has been granted under it, the grantee, shall be bound—

(*a*) to comply with any general or special order of the Local Government relative to the inspection of the premises, buildings, or plant or stock in hand of the industrial business or enterprise;

(*b*) to permit the inspection of all accounts relative to the industrial business or enterprise;

(*c*) to furnish full returns of all products manufactured or sold both as regards description and quantity;

(*d*) to maintain such special accounts or to furnish such statements as the Local Government may from time to time require;

(*e*) to submit the accounts of the industrial business or enterprise to such audit as the Local Government may prescribe.

12. In any case in which a loan or loans is or are granted under this Act amounting to two lakhs of rupees or upwards, the Local Government shall, and in any other case may, by the appointment of Government directors or otherwise, take power to ensure such control over the conduct of the business or enterprise as shall suffice in their opinion to safeguard their interests.

Repayment of loans.

13 (1) Every loan granted under this Act shall be made repayable by instalments within such period from the date of the actual advance of the loan, or when the loan is advanced in instalments from the date of payment of the last instalment, as may be fixed by the order granting the loan.

(2) The period fixed as aforesaid shall not exceed twenty years unless the Local Government shall, by general or by special order, extend the same.

Guaranteeing of loans by banks.

14. No guarantee of a cash credit, overdraft or fixed advance with a bank shall be given except under the conditions prescribed in sections 9 to 12 in respect of loans.

Subscriptions for shares or debentures or guarantee of minimum return on capital.

15. The condition of subscription for shares and debentures by the Local Government or the guarantee of a minimum return on the capital of any industrial business or enterprise shall be that the business or enterprise shall be subject to the conditions of section 11 in respect of inspection and returns as well as of the provisions of section 12 in respect of Government control:

Provided (*a*) that for all shares subscribed by the Government there must be taken up and fully paid for not less than an equal number of shares;

(*b*) that for all capital on which a return is guaranteed by Government there shall be paid up not less than an equal amount of capital which carries no guarantee.

Subsidy by the Local Government.

16. The condition of a grant of subsidy or of any payment under guarantee of a minimum return on the paid-up capital or of the grant of Government land, raw material, firewood or water on favourable terms, shall ordinarily be that an amount equal to the sum paid or to the value of the grant as fixed at the time when it is made shall be repaid to the Local Government at the close of a fixed term of years if within that term the industrial business or enterprise shall be shown to be paying interest or a dividend upon the capital invested in excess of such rate as the Local Government may fix.

No subsidy shall exceed 40 per cent of the cost of the research or of the cost of the machinery as the case may be.

Disposal of profits when condition of State aid is not fulfilled.

17. No recipient of State aid shall pay any dividend or distribute or take any profits in excess of such percentage rate upon the amount of the capital of the industrial business or enterprise as the Government may fix from time to time until the conditions on which the State aid has been granted are fulfilled. The balance of the profits, after setting aside proper amounts for depreciation or obsolescence of plant and buildings, and for the payment of interest on debentures of loans, shall be carried to a reserve fund to be utilized in such manner as the Government may approve.

Methods of recovery of money due.

18. (1) All moneys payable under this Act, including any interest chargeable thereon and costs, if any, incurred, if not paid when due, may be recovered from the person aided and his surety, if any, under the law for the time being in force as if they were arrears of land revenue.

(2) When any sum due as aforesaid is paid by the surety or is recovered from him or out of his property under sub-section (1), the Collector shall, on the application of the surety, so far as possible, recover the same from the person aided and pay the same to the surety.

Power to make rules

19. (a) The Local Government may make rules to carry out all or any of the purposes of this Act not inconsistent therewith.

(b) In particular and without prejudice to the generality of the foregoing power, they may make rules regulating all or any of the following matters:—

(1) the classes of industrial businesses or enterprises to which and the purposes for which aid may be given;

(2) the constitution of the Board of Industries, the term of office of its members, the quorum at the Board's meetings, the method of arriving at its decisions, the appointment of its staff, the remuneration of its members and all other matters relative to the conduct of its business; and the constitution and functions of district committees;

(3) the delegation of the power to grant State aid under section 7;

(4) the manner of making applications for State aid and the information to be given in such applications, provided that no such rule shall require any applicant or grantee of aid to divulge any information relating to the technical details of any process or any patent owned by him;

(5) the manner of conducting inquiries and the matters to be specially inquired into in dealing with applications for State aid and the powers to be exercised by the Director of Industries conducting such inquiries;

(6) the mode of ascertaining the value of the assets of an industrial business or enterprise;

(7) the nature of the security to be taken for the due application of loans and grants and the rates of interest at which and the conditions under which loans or grants may be given, and the creation of a mortgage, floating charge or collateral security under section 10;

(8) the inspection of the premises, buildings, plant and stock on hand and the accounts of any industrial business or enterprise for which State aid has been granted;

(9) the mode of keeping and auditing the accounts and of furnishing returns of any industrial business or enterprise in respect of which State aid has been granted;

(10) the appointment and functions of Government directors or the prescribing of other methods of control of industrial businesses or enterprises in respect of which State aid has been granted;

(11) the application of profits in cases in which the conditions under which loans or grants have been made have not been fulfilled;

(12) the guaranteeing by the Local Government of cash credits, overdrafts or fixed advances by banks and the recognition of banks for this purpose;

(13) the fixing of the period for the repayment of loans and the conditions and dates of the repayment of subsidies and grants; and

(14) the recovery of any moneys due under this Act.

Provided that such rules are laid on the table of the Legislative Council and notified in the *Fort St. George Gazette* one month after which they shall have the force of law unless amended by the Legislature Council within that period, or, if the Council is not sitting during that period, at its next meeting.

Powers of the Government as regards starting or conducting industries and giving aid of certain kinds

20. Nothing in this Act shall be held to debar the Government

(a) from starting or conducting industrial enterprises for experimental purposes or with a view to stimulate industrial development;

(b) from assisting an industrial business or enterprise by agreements to purchase on business terms the whole or a portion of the products of the same;

(c) from assisting an industrial business or enterprise by giving gratis or on favourable terms, the services of Government officials or experts either in the capacity of advisers or for a limited period not exceeding one year for starting or conducting such business or enterprise;

(d) from assisting an industrial business or enterprise in connexion with industrial education or the training of apprentices.

(By order of His Excellency the Governor)

P. L. MOORE,
Acting Secy. to Govt., Law (Legislative) Dept.

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DEVELOPMENT DEPARTMENT.

NOTIFICATION.

FORT ST GEORGE, MARCH 3, 1923

No. 62.—In exercise of the powers conferred by section 19 of the State Aid to Industries Act, 1922 (Act No V of 1923), the Government are pleased to make the following rules :—

RULES.

SECTION 19 (*a*).

The notice under section 8 (2) inviting objections to the grant of a loan or other aid under the Act shall be published by the Director of Industries in at least three consecutive issues of at least two daily newspapers published in Madras and in such mofussil newspapers as the Director of Industries thinks fit in the circumstances of each case and once in the *Fort St George Gazette*. The notice shall specify the name and address of the applicant for the loan or other aid, the nature of the aid and the nature of the business or enterprise in respect of which the application is made. It shall state that any one desiring to make any objection to the loan or other aid may do so by presenting a statement of his objections in writing at the Office of the Director of Industries within thirty days of the publication of the notice. The statement shall furnish details regarding the name, address and calling of the objector and grounds of objection. The Director shall hear the objections, if any, at such time and place as he may notify and place the objections before the Board of Industries with his opinion thereon.

2. The election of the members to represent the Madras Chamber of Commerce, the Southern India Chamber of Commerce and the Madras Trades Association under section 3 (1) (*b*) of the Act shall be held at a meeting of the members of the Chamber or Association concerned, convened in accordance with the rules of such Chamber or Association.

3. The election of the members to represent the Madras Legislative Council shall be conducted in accordance with the regulations made by the President under Standing Order No. 77.

4. A Joint Stock Company shall not be given aid under the Act unless at least one-third of the members of its Board of Management are Indians.

SECTION 19 (*b*) (2).

5. The Chairman of the Board of Industries shall hold office during the pleasure of Government and the members elected or appointed under sub-sections (1) (*b*) and (2) of section 3 shall hold office for a period of three years from the date of notification; but the local Government may at any time accept the resignation of any member.

6. The Government may declare that any member who has absented himself from three consecutive meetings of the Board or from India for three months has ceased to be a member and his office shall thereupon be deemed to be vacant Any such member shall however be eligible for re-election or re-appointment.

7. Any vacancy in the office of a member shall be reported by the Chairman to the Chairman or President of the body concerned in the case of elected members and to the Government in the case of members appointed so that the vacancy may be filled up by fresh election or appointment as the case may be.

8. Every non-official member of the Board shall be entitled to a fee of Rs 30 for each day of the meeting of the Board or of any committee of the Board attended by him. Such of the members as attend from mufassal shall also be entitled to travelling allowance at the rate of one first and one third class ticket for each journey by rail to and from the place of meeting and mileage as for officers of Grade I, Annexure I to the Madras Travelling Allowance Rules. The Director of Industries shall be the Controlling officer for the above purposes under rule 3 of the Madras Travelling Allowance Rules.

9. The following procedure shall be observed with respect to the Proceedings of the Board :—

(1) The Board shall meet and shall make from time to time such arrangements with respect to the place, day, hour, notice, management and adjournment of its meetings, and generally with respect to the transaction of business, as it may think fit, subject to the following conditions ; namely,

(a) the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than four members, call a special meeting of the Board ;

(b) four members shall form a quorum and no business shall be transacted unless a quorum is present ;

(c) every meeting shall be presided over by the Chairman, if present, and during his absence, by such one of the members present as may be chosen by the meeting ;

(d) all questions shall be decided by a majority of votes of the members present, the Chairman having a second or casting vote in all cases of equality of votes ;

(e) if a poll be demanded, the names of the members voting and the nature of their votes shall be recorded by the Chairman of the meeting ;

(f) minutes shall be kept of the names of the members present and of the proceedings at each meeting in a book to be provided for the purpose, which shall be signed, as soon as practicable, by the Chairman of such meeting and shall be open to inspection by any member during office hours ; and

(g) the Chairman may, with the consent of any meeting, adjourn it.

(2) If there should not be sufficient business for holding a meeting, the Chairman may, to avoid delay and expense, ascertain the opinion of the members of the Board by circulation of papers ; if desired by any member, he shall re-circulate the papers and unless on such re-circulation any member specially desires discussion the majority opinion thus ascertained shall be deemed to be the decision of the Board.

(3) The Board may co-opt an official or non-official to assist it in the discussion or elucidation of a particular subject or for the duration of a meeting. Co-opted members will not be entitled to vote, but shall be entitled to the fees and travelling allowances payable to members under rule 8.

(4) The Board may from time to time appoint a committee consisting of not less than three of its number to make a report to it on any particular matter that may be referred to it.

(5) An officer deputed by the Director of Industries from among his subordinates will act as Secretary to the Board.

(6) The Board may refer to a District Committee as hereinafter constituted for advice any application placed before it.

(7) District Committees may be constituted whenever necessary.

(8) Such committees shall consist of not less than three nor more than five members. The members shall be appointed from time to time when occasions arise by Government on the advice of the Director of Industries in consultation with the District Collector. Their functions will be to advise on specific applications for aid under the Act when the Board or Director of Industries considers the assistance of such a committee necessary. No honorarium will be paid to members of such district committees, but travelling allowance will be paid on the scale provided in rule 8 supra and the Collector shall be the Controlling officer for the travelling allowance of members of such committees.

SECTION 19 (b) (4).

10. Every application for aid shall be made to the Director of Industries in the specified form and shall contain a declaration signed by the applicant that the statements made therein are true to the best of his information and belief. It shall also contain information on the following points :—

(a) the nature of the industrial concern for which aid is sought ;

(b) the administrative, technical and executive staff existing or to be appointed with qualifications ;

(c) the facilities available for development of the industry such as sources of raw materials, transport conveniences and marketing of the products, with estimate of anticipated profits ;

(d) the nature of the processes to be employed ;

(e) the total estimated cost of the undertaking ;

(f) why the business cannot be financed without State assistance ;

(g) the nature and extent of the aid applied for ;

(*h*) the security for the aid; on this point information shall be furnished as to the financial resources of the applicant, the assets and revenues which will be available as security for the loan and particulars of any existing charges thereon and debts and as to the additional assets which may be created by the utilisation of the aid applied for. These particulars shall be supplemented by recent Balance Sheets and Profit and Loss Accounts where such exist certified by an auditor entitled to audit the accounts of companies under the Indian Companies Act. Information should also be furnished as to the collateral security offered in the event of the above being found insufficient;

(*i*) the period, if any, over which the payment of the loan or subsidy should be spread;

(*j*) the additional net income expected to be earned as a result of the proposed expenditure;

(*k*) if the applicant is a Joint Stock Company the application should be accompanied by a copy of the prospectus and memorandum and the Articles of Association with information as to the amount of capital actually subscribed and paid up; number of shares held by each of the Directors and their salary and fees and other perquisites and a list containing the names and descriptions of the Directors.

In the case of cottage industries or small concerns not using steam or other power, it will be sufficient if such information is given as is in the opinion of the Board or the Director of Industries necessary to permit of an estimate being made of the feasibility of the proposal, e.g., in the case of a small hand-weaving establishment, the number of operatives to be employed, the sources of raw materials, the number of hand looms, the cost price of materials, the selling price of the finished articles, the method of marketting the product, etc.

SECTION 19 (*b*) (6).

11. (1) The value of the assets of an applicant shall so far as they do not consist of money, be taken to be—

(*a*) in the case of fixed assets acquired by purchase for cash such as, land, buildings, leaseholds, railway sidings, plant and machinery, development of property, trade marks and designs, etc., the price at which these assets were acquired, subject to proper deductions for wear and tear; such deductions shall be calculated in the case of buildings, machinery and plant at the rates fixed as allowable depreciation under section 10 (2) of the Income-tax Act of 1922; X approximate increase or decrease in the market value of the site, machinery and buildings may also be taken into consideration;

(*b*) in the case of fixed assets acquired by purchase otherwise than for cash, the value of the consideration at the time the assets were acquired;

(*c*) in the case of stores, spare gear or tools not taken into use, the cost price or price of replacement whichever is less;

(*d*) in the case of stores, spare gear and tools which have been used, but are still in stock, the cost price less a proper deduction for wear and tear;

(*e*) in the case of stock in trade, if of manufactured stock, the cost of manufacture or the market selling price whichever is less; if purchased stock, the cost price or price of replacement whichever is less;

(*f*) in the case of book debts, the nominal amount of those debts; but the debts shall be classed as good and doubtful and no account shall be taken of doubtful debts; all debts which shall have been due and recoverable for over two years shall be classed as doubtful;

(*g*) in the case of investments the market value of those investments on the day on which the valuation is made;

(*h*) in the case of any other assets which have not been acquired by purchase, the value of the assets at the time when they became assets of the business subject to proper deductions for wear and tear provided that no value shall be placed upon the good will, patents or secret processes of any business.

(ii) The value of the assets so far as they consist of money shall be all cash with bankers or on hand, the value of cash in other countries being taken at the rate of exchange ruling on the day on which the valuation is made.

(iii) The assets having been valued as above, all debts and liabilities of the business shall be deducted, other than accumulated profits and reserves, and the balance shall represent the net value of the surplus of assets and shall be the value of the business for the purposes of the Act.

12. The assets shall be valued by the Director or by a competent person or persons authorized in this behalf by the Local Government.

SECTION 19 (*b*) (7).

13. The interest charged on the loans advanced under the Act shall not be less than one half per cent above the rate at which the Madras Government have last borrowed for the Provincial Loan Account.

14. Whenever a loan is granted under this Act to a person in respect of any industrial business or enterprise and is secured by a mortgage or floating charge upon the assets of such business or enterprise, the grantee of the loan shall be bound to put up at his place or places of business or enterprise a prominent sign-post containing the firm name of such business or enterprise with the addition of the words "State-aided" within brackets. Such notice when so displayed shall be deemed to signify that the business or enterprise is in receipt of a loan secured as provided by section 10 of the Act.

SECTION 19 (b) (8)

15. The recipient of any State Aid under the Act shall be bound to permit the Director of Industries or any person deputed by him by general or special order in writing or any other person authorized in this behalf by the local Government, to inspect the premises, buildings, plant, stock in hand and accounts of the industrial business or enterprise in respect of which the aid has been granted and to grant facilities for all or any of these purposes.

SECTION 19 (b) (9).

16. The accounts of any industrial business or enterprise in respect of which State Aid has been granted shall be examined and audited at least once in every year by an auditor approved by Government and it shall be the duty of such auditor to outline the method on which the books of the particular industrial business or enterprise shall be kept.

17. A return shall be made once in every year certified by such auditor and the return shall show

(1) a full and complete statement of the assets and liabilities of the business,
(2) a valuation of the assets as prescribed by rule 11 above, and
(3) a working or manufacturing account showing
  (a) the outturn of the industrial business or enterprise with the cost per unit of such outturn, and
  (b) the profit or the loss on the marketing of the products produced.

SECTION 19 (b) (11).

18. In cases in which the conditions under which loans or grants have been made have not been fulfilled, no profit shall in any way be appropriated without the sanction of Government.

SECTION (19) (b) (12).

19. Loans shall be [illegible] instalments in discharge of both principal and interest [illegible] time of making out a balance sheet. Subject to the above conditions the Government shall have discretion to fix the date of payment of the first instalment. Provided that such instalment shall not be payable at an earlier date than one full year from the date of disbursement of the loan or of the last instalment of the loan.

20. Nothing in rule 19 shall prevent or debar a borrower from paying at any time a larger sum than the annual instalment or from discharging the whole loan in a single repayment.

(By order of the Government, Ministry of Development.)

J. M. TURING,
Secretary to Government.

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